

A3615(GOGA-PASE)  
June 6, 2001

Ms. Linda McKay  
Fort Funston Dog Walkers  
241 Tocoloma Avenue  
San Francisco, California 94134

Dear Ms. McKay:

Thank you for your May 10, 2001 letter to me stating your concerns about "Pets on Leash" signs within Golden Gate National Recreation Area (GGNRA). The constructive observations and suggestions of our park visitors are always appreciated.

I agree with you that the current situation regarding leashing pets is complex and I welcome your input. We at the GGNRA are trying to craft a solution that takes into account the varied interests of all park users. As you know, we are embarking on a scoping process, called Advanced Notice of Proposed Rulemaking (ANPR), to determine first and foremost whether the National Park Service (NPS)-wide pet regulation should be revised for the GGNRA. That this park has been given permission to pursue the ANPR process is an achievement in itself. On three separate occasions between 1979 and 1999, the park was denied permission to pursue any means of modifying the leash law regulation. We are currently drafting the ANPR and anticipate providing it to NPS headquarters in the near future. There it will go through substantial review by NPS as well as the Department of the Interior. When approved, notice will be published in the Federal Register.

The ANPR process encourages public comment, and you, as well as all other interested parties, will be advised when and by what means public comment will be solicited. We look forward to working closely with your organizations and other interest groups, and will keep you informed about the ANPR process and the associated public comment period. Please be assured that no decision on rulemaking will be made without a fair and open opportunity for public input. With that in mind, your statement that "...our position is, and has been, that rulemaking permitting off-leash use will simply reaffirm what has

been the historic and accepted use..." implies that the results of the ANPR process are a foregone conclusion. It is of the utmost importance that the ANPR process be conducted fairly and objectively, with integrity and respect for the opinions of all. To do otherwise would defeat its purpose.

We strongly encourage you and your respective organizations to take advantage of the opportunity to fully and constructively voice your opinions on the future of off-leash dog walking in Golden Gate National Recreation Area during the public comment period.

While I appreciate your specific suggestions regarding pet management, we at the GGNRA must operate within the confines of the nationwide regulations promulgated for the National Park Service (NPS), as well as the NPS mandate.

The mission of the NPS is to preserve unimpaired the natural and cultural resources and values of the national park system for the enjoyment, education, and inspiration of this and future generations. To do so, we must balance the sometimes competing needs of multiple constituencies. To the extent that use conflicts exist, the NPS must act to promote preservation and prevent impairment and degradation of resources. When there is a conflict between conserving resources and values and providing for enjoyment of them, conservation is to be predominant. This is how the courts have consistently interpreted the provisions of the Organic Act of 1916, which established the NPS.

The constructive opinions and suggestions of the dog community are welcome, as are the views of all park users. However, management of areas where dogs are permitted must take into consideration more than the views of the dog community alone. No one group may be permitted to dictate policy that substantially affects many other park users.

The presence of dogs in areas where they are permitted is not at issue. Where permitted, dogs on leash are welcome. Rather, the issue is whether dogs may be "off leash". Title 36 of the Code of Federal Regulations, Section 2.15(a)(2) states:

The following are prohibited: Failing to crate, cage, restrain on a leash which shall not exceed six feet in length, or otherwise physically confine a pet at all times.

During the last 20 years, the park unofficially attempted to accommodate off leash dog walking in specific areas by following a "voice control policy" recommended by the GGNRA Citizen's Advisory Commission in 1979. This is the 1979 "Pet Policy" to which you refer in your letter.

The Advisory Commission may make recommendations; however, it has no legal authority to promulgate actual park policy. The concept of "voice control" does not exist in either federal statute or NPS regulation, and the Advisory Commission's recommendation did not and could not supercede existing law.

A number of factors, including a steady increase in use and the lawsuit that was brought when areas of Fort Funston were closed to protect a threatened species, heightened public awareness of the issue and brought the park's regulatory responsibilities to the fore. The Advisory Commission's "policy" was in direct conflict with the NPS regulation. At its January 2001 meeting, the Commission recognized that its "voice control policy" was null and void.

Pending any changes, the NPS service-wide pet regulation applies in the GGNRA and in all units of the national park system and is not subject to local interpretation. Since this park has no authority to avoid or ignore the regulation, our public education efforts must address it.

Although the pet regulation is clear, we recognize that there are conflicting opinions on the matter and that the interests of all park users must be balanced within the parameters of the National Park Service mandate. Accordingly, at informational meetings held with you in late March and early April, we discussed the need to enforce the regulation and our intent to install educational signs advising the public of the regulation. The primary purpose of the signs is to advise the visiting public of the rules with which they are expected to comply. Although you state that restoring the old "voice control" signs is the best solution, doing so would not alleviate the confusion you mention. "Voice control" signs would not educate park visitors about the regulation and would mislead them.

To reduce the confusion underscored in your letter, as well as the confusion of the general public, the parkwide installation of signs describing park rules and regulations will continue in the near future. The installation of "Pets On Leash" signs is not a change in use. The regulation has been part of the U.S. regulations applicable to the NPS and the GGNRA for more than 20 years. In placing the "Pets On Leash" signs, we are providing notice of the existing regulation for visitors.

There is also confusion as to what our enforcement posture is and has been. We have enforced and will continue to enforce the leash law as we have done for years, along with regulations prohibiting the harassment of wildlife and aggressive behavior and/or biting. We are working to ensure that our enforcement of the leash law is consistent parkwide, pending any possible changes to the regulation. In the interim, however, we must abide by the current service-wide regulation. Enforcement of the federal law cannot be ignored while we explore alternatives.

In carrying out their law enforcement duties, we require our personnel to exercise sound judgement and discretion. Discretion does not mean that we can avoid enforcing regulations. Rather, as with similar incidents, the officer will, after considering all the circumstances, determine whether a warning, a citation, or other action is necessary. Our staff will continue to demonstrate sensitivity as they work to achieve our overall goal of professional resource and visitor protection.

We find that the best way to gain compliance with the rules is through preventive enforcement that relies first on education and deterrence. An educational contact that gains voluntary compliance is always the preferred method of handling a situation. However, more egregious actions may require a stronger response.

We appreciate your taking the time to share your thoughts and thank you for your interest in the Golden Gate National Recreation Area. Hopefully, we can all work together in a constructive way to reach a solution.

Sincerely,

Brian O'Neill  
General Superintendent